



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

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October 1, 1998

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1900 M Street, N.W.  
Washington, D.C. 20554

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RE: GTE System Telephone Companies,  
GSTC Tariff F.C.C. No. 1, GSTC Transmittal No. 260,  
CC Docket No. 98-167

ATTN: Common Carrier Bureau, Competitive Pricing Division

Dear Secretary Salas:

Enclosed for filing and consideration in the above-captioned proceeding are Comments on Direct Case on behalf of the Pennsylvania Public Utility Commission. An original and six (6) copies are included. Additionally, I have also enclosed a copy to be time-stamped and returned to me in the attached self-addressed envelope.

Our comments are crucial to the Commission's consideration of the filing, and address important underlying issues of state concern.

Very truly yours,

*David E. Screven*

David E. Screven  
Assistant Counsel

Enclosures

No. of Copies rec'd  
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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of )

GTE System Telephone Companies, )  
GSTC F.C.C. Tariff No. 1, )  
GSTC Transmittal No. 260, )

To the Competitive Pricing Division )

CC Docket No. 98-167

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COMMENTS ON DIRECT CASE ON BEHALF OF THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

1. Before the Federal Communications Commission (the Commission) is an interstate access tariff filed by GTE System Telephone Companies ("GTE" or "GSTC") on August 28, 1998 proposing to introduce a new telecommunications service -- GTE DSL Solutions-ADSL (Asymmetrical Digital Subscriber Line) Service.

2. GSTC's new offering, if approved, would become effective in portions of five states, including the Commonwealth of Pennsylvania, by year-end 1998.

3. GSTC asserts that its GTE DSL Solutions-ADSL service offering is an interstate data special access service that will provide high speed access connection between an end-user subscriber and an Internet Service Provider (ISP) by utilizing a combination of the subscriber's existing local exchange physical plant, a specialized DSL-equipped wire center, and transport to the network interface where the ISP will connect to GSTC's network.

4. GTE explains that its ADSL service offering will enable simultaneous transmission of voice dialed calls and high speed data access over a single path, thereby reducing the need for subscribers to obtain additional lines for Internet access capabilities.

5. GTE asserts that its ADSL Service is appropriately filed as an "interstate access service" tariff because Commission and court precedents have indicated that it is the nature of end-to-end communication itself rather than "the physical location of the technology that determines the jurisdictional classification."

6. GTE contends that Internet traffic is primarily interstate in nature because ISP providers connect end users to information both local and worldwide.

7. GTE noted that section 69.2(b) of the Commission's rules defines access service as "includ[ing] services and facilities provided for the origination or termination of any interstate or foreign telecommunications" and explains that its DSL offering should be properly designated as an "interstate access tariff" because the calls to ISP providers that GTE's ADSL service will be handling "are part of one continuous path originating at the end user's site and terminating at the Internet servers accessed."

8. Approval of GSTC's purported "interstate access tariff" filing by the Commission could have an adverse impact on the current rates charged by GSTC for ISP traffic in Pennsylvania.

9. Commission policy has held this type of traffic (ISP calls) exempt from interstate access charges and subject to local service charges which currently fall under the jurisdiction of the various states.

10. The Pennsylvania Public Utility Commission ("the PaPUC") has not made a determination as to whether ISP calls should be designated as "local" and thus properly tariffed at the state level or "interstate" and properly tariffed at the federal level.

11. The PaPUC is currently involved in a generic proceeding at P-00981404 investigating whether Internet calls are properly classified as either "local" or "interstate". Currently, that investigation is scheduled to be completed by the end of the year.

12. The PaPUC asks that any Commission determination regarding the jurisdictional classification of GSTC's tariff should be made with a view to sustaining any determination the PaPUC may make in Pennsylvania's own generic proceeding which should be concluded before the date of any FCC decision on this tariff.

13. The PaPUC asks this because, by seeking Commission approval for the instant tariff filing, GSTC could conceivably be attempting to preempt the PaPUC's determination of whether Internet calls are "local" calls or "interstate" calls.

14. Moreover, by allowing this tariff to go into effect, the FCC could be inadvertently encouraging "forum-shopping" as a way to preempt a state's efforts to resolve matters of local concern such as the policy treatment of Internet calls.

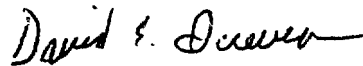
### CONCLUSION

15. For the foregoing reasons, the PaPUC respectfully requests that any Commission determination regarding the jurisdictional classification of ISP calls expressly sustain any determination made by the PaPUC prior to the Commission's

decision so as to preserve the integrity of the PaPUC's investigation of Internet calls and the Commonwealth of Pennsylvania's treatment of those calls.

16. The PaPUC's current proceeding investigating Internet calls at Docket No. P-00981404 is scheduled for completion by December 31, 1998. Thus, in the alternative, the PaPUC respectfully requests that if a determination must be made by the Commission in the instant matter before January 1, 1999, that the Commission reject GSTC's tariff filing, Transmittal No. 260.

Respectfully submitted,



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DATED: October 1, 1998

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of	)	
	)	
GTE Telephone Operating Companies,	)	CC Docket No. 98-167
GSTC F.C.C. Tariff No. 1,	)	
GSTC Transmittal No. 260	)	
	)	
<u>To the Competitive Pricing Division</u>	)	

**CERTIFICATE OF SERVICE**

I, David E. Screven, hereby certify that I have on this 29th day of September served a true and correct copy of the Comment on the Direct Case on behalf of the Pennsylvania Public Utility Commission (PaPUC) upon the persons and in the manner indicated below:

October 1, 1998 by Federal Express:

Magalie R. Salas, Secretary  
Office of the Secretary  
FCC  
1919 M Street NW  
Washington, D.C. 20554

October 1, 1998 by First Class Mail:

Competitive Pricing Division  
Common Carrier Bureau  
Room 518  
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Washington, D.C. 20554

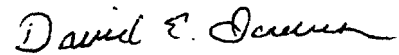
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DATED: October 1, 1998